



# **THE ATTORNEY GENERAL OF TEXAS**

**AUSTIN, TEXAS 78711**

**WAGGONER CARR  
ATTORNEY GENERAL**

March 14, 1966

Honorable Fred Holub  
County Attorney  
Matagorda County  
Bay City, Texas

Opinion No. C-636

Re: Whether the County Attorney  
of Matagorda County, Texas,  
has the duty to act under  
the new Uniform Reciprocal  
Enforcement of Support Act.

Dear Mr. Holub:

You have requested an opinion of this office concerning the captioned matter.

The new Uniform Reciprocal Enforcement of Support Act, Acts 1965, 59th Legislature, Chapter 679, page 1561, codified as Article 2328b-4, Vernon's Civil Statutes, delegates certain enumerated duties to the "Prosecuting attorney" who is defined in Section 2 (o) as follows:

" . . . 'Prosecuting attorney' means the district attorney or, in those counties in which the county attorney fulfills the functions of the district attorney, the county attorney."

Section 21 of Article 5 of the Texas Constitution provides, in part, as follows:

"The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature."

The County Attorney of Matagorda County does not fulfill the functions of the District Attorney, as such county has a District Attorney.

In Section 2(o) of Article 2328b-4, supra, the Legislature has, with clear and unambiguous language, defined the term "Prosecuting Attorney", as used in the Act. Section 12

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thereof, when Texas is the initiating state, provides:

"The prosecuting attorney, upon the request of the court or the State Department of Public Welfare, shall represent the plaintiff in any proceeding under this Act."

Sections 18 and 19 of the Act contain comparable provisions when Texas is the responding state.

As the Legislature has specifically made it the duty of the District Attorney to be the "Prosecuting Attorney" in such cases, in all instances, except in those counties in which the County Attorney fulfills the functions of the District Attorney, it is our opinion that the County Attorney of Matagorda County does not have the duty to act as "prosecuting attorney" under the Uniform Reciprocal Enforcement of Support Act. See Garcia v. Laughlin, 285 S.W.2d 191, 195 (Tex.Sup. 1955).

#### SUMMARY

The County Attorney of Matagorda County does not have the duty to act as "prosecuting attorney" under the Uniform Reciprocal Enforcement of Support Act.

Very truly yours,

WAGGONER CARR  
Attorney General of Texas

By:   
LARRY J. CRADDOCK  
Assistant Attorney General

LJC:cm

APPROVED:  
OPINION COMMITTEE:

W. V. Geppert, Chairman  
Lonny F. Zwiener  
Robert Owen  
Ralph Rash  
Dean Arrington

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APPROVED FOR THE ATTORNEY GENERAL  
BY: T. B. WRIGHT